

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	File No.: EB-09-IH-1701
<b>DELTA AIR LINES, INC.</b>	)	
	)	NAL Acct. No.: 201132080007
Licensee of Various Authorizations in the	)	
Wireless Radio Services	)	FRN: 0001858828

**ORDER**

**Adopted: December 13, 2010**

**Released: December 13, 2010**

By the Chief, Enforcement Bureau:

1. In this Order, we adopt a Consent Decree terminating an investigation by the Enforcement Bureau (the “Bureau”) into compliance by Delta Air Lines, Inc. (“Delta”) with Section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(d), and Section 1.948 of the Commission’s Rules, 47 C.F.R. §1.948, relating to Delta’s acquisition of Northwest Airlines, Inc. on October 29, 2008.

2. The Bureau and Delta have negotiated the terms of a Consent Decree that would terminate the Bureau’s investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Delta possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED**, pursuant to Section 4(i) of the Communications Act of 1934, as amended,<sup>1</sup> and the authority delegated by Sections 0.111 and 0.311 of the Commission’s rules,<sup>2</sup> that the attached Consent Decree **IS ADOPTED**.

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<sup>1</sup> 47 U.S.C. § 154(i).

<sup>2</sup> 47 C.F.R. §§ 0.111, 0.311.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class certified mail, return receipt requested, to Alan Tilles, Esquire, Shulman, Rogers, Gandal, Pordy & Ecker, PA, 12505 Park Potomac Avenue, 6<sup>th</sup> Floor, Potomac, Maryland 20854.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison  
Chief, Enforcement Bureau

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**CONSENT DECREE**

1. The Enforcement Bureau of the Federal Communications Commission and Delta Air Lines, Inc., by their authorized representatives, hereby enter into this Consent Decree for the purpose of resolving the Enforcement Bureau's investigation of compliance by Delta Air Lines, Inc., with Section 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(d), and Section 1.948 of the Commission's rules, 47 C.F.R. §1.948.

**I. DEFINITIONS**

2. For purposes of this Consent Decree, the following definitions shall apply:
- (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
  - (b) "Adopting Order" means an order of the Bureau adopting this Consent Decree.
  - (c) "Bureau" means the FCC's Enforcement Bureau.
  - (d) "Commission" or "FCC" means the Federal Communications Commission and all of its Bureaus and Offices.
  - (e) "Compliance Plan" means the program described in this Consent Decree at paragraph ten (10).
  - (f) "Delta" means Delta Air Lines, Inc. and its predecessors-in-interest and successors-in-interest.
  - (g) "Effective Date" means the date on which the Bureau releases the Adopting Order.
  - (h) "Investigation" means the Bureau's investigation into Delta's compliance with Section 310(d) of the Act and Section 1.948 of the Rules relating to its acquisition of Northwest Airlines, Inc. on October 29, 2008.
  - (i) "Northwest" means Northwest Airlines, Inc., which was acquired by Delta on October 29, 2008.

(j) "Parties" means the Bureau and Delta, each of which is a "Party."

(k) "Rules" means the Commission's regulations found in Title 47 of the Code of Federal Regulations.

## II. BACKGROUND

3. Delta is an Atlanta, Georgia-based airline carrier that offers service to more than 350 destinations in 65 countries. It holds a number of licenses in the Wireless Radio Services for internal, non-commercial use.

4. Section 310(d) of the Act provides that no station license shall be assigned without prior Commission consent. Section 1.948 of the Rules establishes a similar prohibition with regard to station licenses in the Wireless Radio Services.

5. On October 29, 2008, Delta acquired Northwest as part of a merger transaction. The transaction effectuated a substantial assignment of a number of private land mobile radio licenses. Delta did not file applications seeking Commission consent to the assignment of licenses prior to consummating the merger transaction. On April 3 and June 16, 2009, Delta filed two applications seeking Commission consent to the assignment of a total of 210 private land mobile radio licenses from Northwest to Delta. Both applications were subsequently granted by the Commission's Wireless Telecommunications Bureau. Thereafter, the Enforcement Bureau commenced its Investigation of Delta's compliance with Section 310(d) of the Act and Section 1.948 of the Rules. Delta attributes its failure to timely file the assignment applications to, among other things, a misunderstanding that all of the radio licenses relating to Northwest's operations were held by a separate, independent entity, and as such, no pre-merger approval of the assignment was required. However, Delta states that after the transaction, it learned that there were additional radio licenses held directly by Northwest that required Commission consent.

## III. TERMS OF AGREEMENT

6. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to approval by the Bureau by incorporation of such provisions by reference in the Adopting Order, without change, addition, modification, or deletion.

7. **Jurisdiction.** Delta acknowledges that the Commission has jurisdiction over the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

8. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission order.

9. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate its Investigation on the Effective Date. In consideration for the termination of the Investigation, Delta agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Delta concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the

absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion, any proceeding, formal or informal, or take any action on its own against Delta with respect to Delta's basic qualifications, including its character qualifications to be a Commission licensee or to hold Commission authorizations.

10. **Compliance Plan.** Delta agrees that it will develop and implement within sixty (60) calendar days a comprehensive Compliance Plan for the purpose of ensuring its compliance with Section 310(d) of the Act and Section 1.948 of the Rules. The Compliance Plan shall include, at a minimum, the following components:

- (a) **Compliance Officer.** Within sixty (60) calendar days of the Effective Date, Delta will designate a Compliance Officer who will administer the Compliance Plan, supervise Delta's compliance with the Rules, and serve as the point of contact on behalf of Delta for all FCC-related compliance matters.
- (b) **Compliance Manual.** Within sixty (60) calendar days of the Effective Date, the Compliance Officer will develop and distribute a Compliance Manual to employees and all others who, on behalf of Delta, perform duties that trigger or may trigger compliance-related responsibilities. The Compliance Manual will include (i) an overview of the Commission's requirements, including the need for prior approval for license assignments and transfers of control; (ii) a description of the regulatory requirements applicable to the accurate reporting of information in FCC applications; and (iii) instructions regarding due diligence for FCC applications. The Compliance Manual will be updated from time to time as needed.
- (c) **Compliance Training Program.** Within ninety (90) calendar days of the Effective Date, Delta will implement a Compliance Training Program for employees and all others who, on behalf of Delta, perform duties that trigger or may trigger compliance-related responsibilities. This Compliance Training Program will be presented to new employees who are engaged in compliance-related activities within the first sixty (60) calendar days of employment. This Compliance Training Program will track the Compliance Manual, focusing on proper implementation of the procedures outlined in the Compliance Manual and tailored to specific user groups.
- (d) **Compliance Reports.** Delta will submit a Compliance Report to the Commission ninety (90) days after the Effective Date and annually thereafter on the anniversary of the Effective Date until the Termination Date. Each Compliance Report will include a certification by the Compliance Officer that Delta is, and at all times since the previous Compliance Report was submitted has been, in compliance with the terms and conditions of this Consent Decree and with Section 310(d) of the Act and Section 1.948 of the Rules. The certification must comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein. If the Compliance Officer is not able to so certify, he shall explain fully the reason(s) therefore. All Compliance Reports shall be directed to the Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554.
- (e) **Termination Date.** The requirements relating to the Compliance Plan shall expire thirty six (36) months after the Effective Date.

11. **Voluntary Contribution.** Delta agrees that it will make a voluntary contribution to the United States Treasury in the total amount of thirty five thousand dollars (\$35,000.00). The payment shall be made in full within 30 days of the Effective Date. The payment shall be made by check or similar instrument, payable to the Order of the Federal Communications Commission. The payment must include the Account Number and FRN referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to the Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank-Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account number in block number 23A (call sign/other ID), and enter the letters "FORF" in block number 24A (payment type code). Delta will also send electronic notification within forty-eight (48) hours of the date of said payment is made to [Hillary.DeNigro@fcc.gov](mailto:Hillary.DeNigro@fcc.gov).

12. **Waivers.** Delta agrees to waive any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Consent Decree is adopted without change, addition, modification or deletion. Delta shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party, or the United States on behalf of the Commission, brings a judicial action to enforce the terms of the Adopting Order, neither Delta nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Delta shall waive any statutory right to a trial *de novo*. Delta hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

13. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of the Consent Decree to which Delta does not expressly consent) that provision shall be superseded by such Commission rule or order.

14. **Successors and Assigns.** Delta agrees that the terms and conditions of this Consent Decree shall be binding on its successors, assigns, and transferees.

15. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Rules and Orders and shall not be construed as an admission by Delta.

16. **Modifications.** This Consent Decree may not be modified without the advance written consent of both Parties.

17. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

18. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

19. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

By: \_\_\_\_\_

P. Michele Ellison  
Chief, Enforcement Bureau  
Federal Communications Commission

By: \_\_\_\_\_

J. Scott McClain  
Assistant General Counsel  
Delta Air Lines, Inc.

Date: \_\_\_\_\_

Date: \_\_\_\_\_